IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No. 21437 of 1998

Between

N.Kesiya, S/o Oomla, Constable in

Central Industrial Security Force,

CISF Unit, SAIL Polancha,

Khammam district.

..... PETITIONER

AND

1. The Directorate General, Central Industrial

Security Force (Ministry of Home Affairs),

Block No.13, CGO's Complex, Lodhi Road,

New Delhi 110 003.

2. The Inspector General(SWS), Central

Industrial Security Force, (Ministry of Home

Affairs), RCFL complex, Chembur,

Mumbai-400 074.

3. The Group Commandant, Central Industrial

Security force, (Ministry of Home Affairs),

CISF Group Headquarters, Red Hills,

Hyderabad-4.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of a Writ of Certiorari declaring the Order No.V-11014/8/98-L&R/1360, dated 15-5-1998 of the Directorate General, Central Industrial Security Force, Ministry of Home Affairs, Block No.13, CGO's Complex, Lodhi Road, New Delhi – 110 003 as arbitrary, illegal and quash the same and consequently restore the position to original stage, which was prevailing prior to awarding of punishment to the petitioner and grant him all consequential benefits that will accrue on that basis.

Counsel for the Petitioner: Mr. T.P.ACHARYA

Counsel for the Respondents: Smt.A.P.LAKSHMI

The Court made the following :

ORDER:

This Writ Petition is filed seeking a Mandamus to declare the Order dated 15-5-1998 of the 1st respondent as arbitrary and illegal and consequently to direct the respondents to restore the position of the petitioner to original stage which was prevailing prior to awarding of punishment and pay him all consequential benefits.

By an order dated 26-6-1992 of the 3rd respondent, the petitioner was imposed with a punishment of reduction of pay to the lowest stage i.e. Rs.855/- in his time scale of pay for a period of three years with cumulative effect for certain misconduct alleged against him.

Heard both sides.

Learned counsel for the petitioner raised a question of law stating that the 3rd respondent-disciplinary authority has no power to impose the punishment of reduction in pay to the lowest stage for a period of three years with cumulative effect. In this regard, he relied upon a Judgment of this Court in Writ Petition No.10299 of 1988, dated 9-7-2002. In the said Judgment, this Court while relying upon a reported decision in **FOOD CORPORATION OF INDIA v. STATE OF WEST BENGAL** (1981(2) SLR 806) held that the disciplinary authority can withhold the increments only without cumulative effect, if it intends to award punishment under Rule 31(e)

Central Industrial Security Force Rules,1969. He had also drawn the attention of this Court to a letter dated 14-10-1992 addressed by the Directorate General, CISF, Ministry of Home Affairs, New Delhi to the Deputy Inspector General, CISF, New Delhi wherein it is stated that in view of the findings of this Court in the above Judgment, under Rule 31(e) of CISF Rules,1969 withholding of increments with cumulative effect is not permissible and as such, the disciplinary authority can only withhold the increments without cumulative effect, if it wants to award the punishment under Rule 31(e) of the said Rules.

Whereas, the learned standing counsel for the respondents contends that this is not a case where there was a stoppage of increment with cumulative effect. It was only reduction of pay to the minimum of the time-scale. As such, it cannot be strictly construed that the disciplinary authority has no power to pass such an order.

The said contention is untenable in the light of the language imported in the above Circular and also in view of the said Judgment of this Court. It is clear from the order of disciplinary authority that reduction in pay for a period of three years with cumulative effect will have the effect of postponing the future increments. This is nothing but a punishment of reduction of three increments with cumulative effect. The issue is no more *res integra* and covered by the said decision of this Court.

In the facts and circumstances of the case, the order passed by the disciplinary authority as confirmed by the appellate authority does not survive insofar as it relates to making the punishment with cumulative effect is concerned. Accordingly, the order of the disciplinary authority as confirmed by the appellate authority is modified to the effect that the reduction of pay of the petitioner to the lowest stage i.e. Rs.855/- in the time scale will be for a period of three years without cumulative effect

Accordingly the Writ Petition is disposed of. No order as to costs.

August 20 2004

Prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Directorate General, Central Industrial
Security Force (Ministry of Home Affairs),
Block No.13, CGO's Complex, Lodhi Road,
New Delhi 110 003.

2. The Inspector General(SWS), Central
Industrial Security Force, (Ministry of Home
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